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October 26, 2018

Via electronic submittal to www.regulations.gov, Docket No. EPA-R06-OAR-2016-0611

Ms. Anne Idsal
Regional Administrator
Environmental Protection Agency, Region 6
1445 Ross Avenue, Suite 1200
Dallas, Texas 75202

RE: **Docket No. EPA-R06-OAR-2016-0611**
Promulgation of Air Quality Implementation Plans; State of Texas; Regional Haze and Interstate Visibility Transport Federal Implementation Plan: Proposal of Best Available Retrofit Technology (BART) and Interstate Transport Provisions; 83 Fed. Reg. 43,586 (August 27, 2018)

Dear Ms. Idsal,

American Electric Power Company (AEP) respectfully submits the attached comments to the above-referenced proposal on behalf of its wholly owned subsidiaries, Southwestern Electric Power Company ("SWEPCO") and Public Service Company of Oklahoma ("PSO").

American Electric Power Company, Inc. ("AEP"), based in Columbus, Ohio, is one of the nation's largest electricity producers with approximately 32,000 megawatts of diverse generating capacity, including 4,300 megawatts of renewable energy. AEP's family of companies includes Southwestern Electric Power Company ("SWEPCO") and Public Service Company of Oklahoma ("PSO"). SWEPCO is headquartered in Shreveport, Louisiana and serves 535,000 customers in western Arkansas, northwestern Louisiana, and eastern and north Texas. PSO serves 550,000 customers and is headquartered in Tulsa, Oklahoma and serves customers in eastern and southwestern Oklahoma.

SWEPCO and PSO own and operate coal, lignite and gas fueled electric generating units ("EGUs") in Texas that are impacted by the Proposal. These units provide electric generation to the Southwest Power Pool and ERCOT regional transmission organizations. Specifically, the EGUs, all located in Texas, are: for SWEPCO - Welsh Power Plant Units 1, 2, and 3, Pirkey Power Plant Unit 1 and Wilkes Power Plant Units 1, 2, and 3 and for PSO - Oklaunion Power Plant Unit 1.

AEP's comments address in more detail the following points:

- AEP supports: the October 2017 FIP establishing an intrastate trading program addressing emissions of SO_2 from certain EGUs in Texas as a BART alternative, the EPA's identification of sources covered by the Program and the EPA's determination that this Program satisfies the requirements for BART alternatives.

- AEP supports EPA's demonstration that compliance with the October 2017 final rule is part of the long-term strategy to meet reasonable progress requirements for regional haze rule.

- AEP agrees with EPA's proposal to affirm the finding that the BART alternatives in the October 2017 rulemaking to address SO_2 and NO_x BART at Texas' EGUs results in emission reductions adequate to satisfy the requirements of CAA section 110(a)(2)(D)(i)(II) with respect to visibility for a number of NAAQS issued between 1997 and 2010.

- AEP agrees with EPA's proposal to affirm the October 2017 approval of Texas' SIP determination that no sources are subject to BART for PM.

- AEP supports EPA's retention of the provision that provides the opportunity for certain units to op-in to the Texas SO_2 Trading Program.

- AEP supports eliminating the additional flexibility to Coleto Creek in light of recent change in ownership.

- AEP supports the EPA's proposal that includes 40 CFR § 97.911(a)(2) that addresses how allowances from retired units will be allocated following retirement.

- AEP supports EPA's alternative proposal that reduces the available allowances in the supplemental pool and thus the total number of allowances available for allocation per year.

AEP appreciates the additional opportunity to provide comment on the rule that became final on November 17, 2017 and urges EPA to affirm its proposal in light of these comments. In the event you should have any questions regarding these comments please contact me at (214) 777-1116 or Elizabeth Gunter at (512) 481-3328.

Sincerely,

Bruce Moore with permission by Elizabeth Gunter

Bruce Moore
Manager, Air Quality Services

Attachment

American Electric Power Company

Comments to Promulgation of Air Quality Implementation Plans; State of Texas; Regional Haze and Interstate Visibility Transport Federal Implementation Plan: Proposal of Best Available Retrofit Technology (BART) and Interstate Transport Provisions, 83 Fed. Reg. 43586 (August 27, 2018) ("Proposal")

Docket No. EPA-R06-OAR-2016-0611 at http//www.regulations.gov

In October 2017, the United States Environmental Protection Agency ("EPA") finalized a partial approval of the 2009 Texas Regional Haze State Implementation Plan ("SIP") submission and a Federal Implementation Plan ("FIP") for Texas.[1] This final rule addressed Texas' Regional Haze obligations and Best Available Retrofit Technology ("BART") electric utility boiler determinations with respect to SO_2, NO_x and PM as well as certain interstate visibility transport requirements. In December 2017, the National Parks Conservation Association, Sierra Club and the Environmental Defense Fund filed a petition for review in the United States Court of Appeals for the Fifth Circuit and a petition for reconsideration with EPA related to Regional Haze determinations for SO_2.[2] The Fifth Circuit issued a stay of the petition for review in response to a joint motion pending EPA's resolution of the petition for reconsideration.[3] EPA granted the reconsideration petition agreeing with the petitioners that "certain aspects of the final rule could benefit from additional public input."[4] In this Proposal EPA proposes to affirm its October 2017

[1] Promulgation of Air Quality Implementation Plans; State of Texas; Regional Haze and Interstate Visibility Transport Federal Implementation Plan, 82 Fed. Reg. 48,324 (October 17, 2017).
[2] Plaintiff, *Nat'l Parks Cons. Assn. v. et.al. v. USEPA*, Petition for Review filed December 15, 2017 in the Court of Appeals for the Fifth Circuit; Petition for Review of EPA-R06-OAR-2016-0611 submitted by *Nat'l Parks Cons. Assn. et.al.* to USEPA dated December 15, 2017.
[3] *Nat'l Parks Cons. Assn. et.al. v. USEPA*, Order in Case No. 17-60828, March 6, 2018.
[4] Correspondence from S.Pruitt to Mr. M. Soules and Mr. M. Gerhart dated April 30, 2018 agreeing to convene a new rulemaking proceeding in response to the addressee's petition for reconsideration.

SIP approval and FIP promulgation and seeks specific comment on certain aspects of its October 2017 final rule.

American Electric Power Company, Inc. ("AEP"), based in Columbus, Ohio, is one of the nation's largest electricity producers with approximately 32,000 megawatts of diverse generating capacity, including 4,300 megawatts of renewable energy. AEP's family of companies includes Southwestern Electric Power Company ("SWEPCO") and Public Service Company of Oklahoma ("PSO"). These companies own and operate coal, lignite and gas fueled electric generating units ("EGUs") in Texas that are impacted by the Proposal. These units provide electric generation to the Southwest Power Pool and ERCOT regional transmission organizations.[5] SWEPCO is headquartered in Shreveport, Louisiana and serves 535,000 customers in western Arkansas, northwestern Louisiana, and eastern and north Texas. PSO serves 550,000 customers and is headquartered in Tulsa, Oklahoma and serves customers in eastern and southwestern Oklahoma. AEP submits these comments on behalf of these subsidiaries.

Specifically, EPA's proposal to affirm the October 2017 FIP and SIP approval directly affects SWEPCO's and PSO's generation in Texas. Since 2000, the emissions of SO_2 and NO_x from SWEPCO's and PSO's Texas coal and lignite fired power plants have declined 70% and 68%, respectively.

AEP supports the EPA's proposal to affirm the FIP establishing an intrastate trading program that addresses Texas' SO_2 regional haze obligations as a BART alterative to source-specific controls ("Texas SO_2 Trading Program" or "Program"). This Program will allow SWEPCO operational flexibility in complying with its BART obligations via a trading program

[5] Specifically, these units located in Texas are: for SWEPCO - Welsh Power Plant Units 1, 2, and 3, Pirkey Power Plant Unit 1 and Wilkes Power Plant Units 1, 2, and 3 and for PSO - Oklaunion Power Plant Unit 1.

based on Cross State Air Pollution Rule ("CSAPR") allocations and relies on EPA's determination that compliance with CSAPR is equal to or better than BART in reducing emissions during the first planning period. [6]

While AEP would have preferred a SIP based program administered by the State of Texas to the FIP, we understand time constraints imposed by litigation deadlines made a State led approach infeasible in the near term. Generally, AEP supports a SIP approach for compliance with visibility and interstate transport state obligations but in this instance supports the FIP approach.

AEP appreciates this opportunity to provide these comments supporting the Program and to respond to EPA's specific requests for comment. This rulemaking has taken many twists and turns and AEP will not recount the entire history of Regional Haze implementation in Texas in these comments as it is summarized in the Proposal and docket for this Proposal. Suffice it to say we could describe these series of rulemakings and court cases as "There and Back Again." [7]

I. AEP supports: the October 2017 FIP establishing an intrastate trading program addressing emissions of SO_2 from certain EGUs in Texas as a BART alternative, the EPA's identification of sources covered by the Program and the EPA's determination that this Program satisfies the requirements for BART alternatives. [8]

AEP supports EPA's proposal to affirm the October 2017 FIP establishing an intrastate Texas SO_2 Trading Program. EPA's determination that this BART alternative will provide similar emissions reductions as those provided by compliance with CSAPR is supported by EPA's BART alternative demonstration in the Proposal which relies on the CSAPR better than BART rule and more recent SO_2 emissions data. Further, since the issuance of the Texas SO_2 Trading Program, the Court of Appeals for the D. C. Circuit confirmed that the CSAPR better than BART rule

[6] *Util. Air Regulatory Group v. EPA*, 885 F.3d. 714 ((D.C. Cir. 2018)
[7] Title of Bilbo Baggins memoir in The Hobbit, by J.R.R. Tolkien.
[8] EPA states that it is not soliciting comment on their final determination that CSAPR addresses the NOx BART requirements for EGUs for Texas. 83 Fed. Reg. at 43,590.

provides greater reasonable progress toward natural visibility by 2064 than source-specific BART. The Texas SO_2 Trading Program very closely resembles the CSAPR program for Texas using the same allowances for participating units as the units would have received had they participated in CSAPR. In instances where the Texas SO_2 Trading Program differs from the Phase 2 CSAPR program for Texas, EPA sufficiently shows that these differences provide additional stringency that more than compensates for the fact that not all units are currently covered by the Program.

A. Comparison of Texas SO_2 Trading Program to Texas CSAPR Allocations.

EPA's comparison of the Texas SO_2 Trading Program to the CSAPR trading program for Texas demonstrates by the numbers that the Texas SO_2 Trading Program satisfies the requirements as a BART alternative. To demonstrate the similarity of the two programs for purposes of relying on the CSAPR better than BART rule modeling as a basis for proving up the Texas SO_2 Trading Program as a BART alternative, EPA relies on original CSAPR modeling and subsequent sensitivity analyses. [9] In addition, EPA populates the Texas SO_2 Trading Program using the Phase 2 CSAPR allocations for "covered" EGUs that are included in the Program.[10]

Given EPA's withdrawal of Texas from the Phase 2 CSAPR trading program, not all EGU sources in Texas that were subject to CSAPR are subject to BART; so not all EGUs in Texas are covered by the Program. Included in the Program are the obvious "subject to BART" units and their Phase 2 CSAPR allocations. EPA also identifies and includes as additional sources in the Program units that were either co-located with "subject to BART" units or under the same ownership as "subject to BART units." Using this approach, EPA arrives at a meaningful approximation to the CSAPR better than BART alternative. AEP supports EPA's approach for

[9] 82 Fed. Reg. at 48,353.
[10] 82 Fed. Reg. at 48,357.

identification of sources and units that were included in the trading program and supports EPA's interpretation of 40 CFR 51.308(e)(2)(C) that source-specific BART determinations are not required.[11]

Including these identified sources and their Phase 2 CSAPR allocations in the Program yields the annual tons per year of allocations as 238,393 tons covered by the Program, which represents 81% of available Phase 2 CSAPR allowances.[12] The total Phase 2 CSAPR allocations for all EGUs in Texas is 279,740 tons, plus additional tons for new unit set aside to bring the total number of CSAPR allocations in Texas to 294,471 tons. By comparison, the Texas SO_2 Trading Program does not contain additional allocations for a new unit set aside but does include a supplemental pool of an additional 10,000 tons. Comparing the covered unit's total allocations of 248,393 with total Phase 2 CSAPR allocations for all existing units of 294,471, EPA states that the covered unit's allocations provide coverage for approximately 85% of the previously applicable CSAPR program allocations.[13] CSAPR allocations not covered by the Program account for 36,047 tons.[14] AEP agrees that while there may not be complete participation by all EGUs in the trading program, EPA has built stringency measures into the Texas SO_2 Program that ensures SO_2 emissions do not exceed the CSAPR better than BART rule emissions projected for Texas.

Citing to the Technical Support Document for the Demonstration of the Transport Rule as a BART Alternative, EPA reiterates in the October 2017 sensitivity analysis, that the CSAPR would remain better than BART so long as Texas EGU emissions remain at or below 317,100 tons.[15] AEP agrees with EPA's use of the 317,000 tons as a benchmark that supports EPA's

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[11] 83 Fed. Reg. at 43,599.
[12] 238,393 tpy /294,471 tpy.
[13] 82 Fed. Reg. at 48,358; 238,393 tons + 10,000 tons = 248,393 tons; 248,393/294.471=85%).
[14] Table 8, Coal-Fired EGUs Not Covered by the Texas SO2 Trading Program, 83 Fed. Reg. at 43,601.
[15] 82 Fed. Reg. at 48,359.

reliance on more *recent actual* (vs. modeled) emissions data in EPA's BART alternative demonstration for the Program. In 2015 actual emissions from EGUs in Texas was 260,122, in 2016, 245,446 tons and in 2017, 275,965 tons - clearly demonstrating that actual emissions are on a trend well below the projected 317,000 tons and providing the clear weight of the evidence that compliance with the Texas SO_2 Trading Program satisfies the requirements as a BART alternative.

B. Differences between the Texas BART Trading Program and CSAPR that increase Program stringency

EPA highlighted certain features of the Program that provide additional stringency and atones for the absence of participation of all CSAPR sources. Notably, the Texas SO_2 Trading Program will be implemented beginning January 2019 and emissions reductions under the Program realized by the end of 2019, much sooner than the earliest of the compliance dates in the Texas source-specific BART proposal. More recent SO_2 emissions data indicates that actual emissions are lower than predicted by the model used to establish source-specific BART. Future SO_2 emissions reductions are also expected to be realized from unit retirements, including a recently announced retirement of a PSO operated unit. The Texas SO_2 Trading Program does not allow trading outside of the State of Texas and caps the number of allowances in the Program, thus increasing the stringency of the Program by limiting the trading of emissions to Texas and capping emissions for those covered sources; including the capping of the supplemental pool of allowances. AEP agrees with EPA's conclusions that the units that are not included in the Program will produce fewer emissions due to better SO_2 emissions controls. Any generation that is shifted to non-covered units will likely be shifted to EGUs that burn lower sulfur fuel. Importantly, multiple EGU retirements have occurred that were not accounted for in the CSAPR better than BART demonstration and were announced since the issuance of the Texas SO_2 Trading Program and removal of Texas from the Phase 2 CSAPR Program. These retirements represent real emissions reductions. Going forward, the number of units that might utilize allocations within the State of Texas has diminished which will necessarily decrease total SO_2 annual emissions in Texas. [16]

Clearly, compliance with the Texas Regional Haze obligations is more than satisfied by compliance with the Texas SO_2 Trading Program.

II. AEP supports EPA's demonstration that compliance with the October 2017 final rule is part of the long-term strategy to meet reasonable progress requirements for regional haze rule.

AEP believes the EPA's program addresses Texas' long-term strategy including meeting the reasonable progress requirements for the State of Texas' compliance with Regional Haze obligations for the first planning period. AEP supports the State of Texas adopting its own trading program similar to the EPA's program and using this as a platform for meeting the requirements of reasonable progress during the second planning period.

III. AEP agrees with EPA's proposal to affirm the finding that the BART alternatives in the October 2017 rulemaking to address SO_2 and NO_x BART at Texas' EGUs results in emission reductions adequate to satisfy the requirements of CAA section 110(a)(2)(D)(i)(II) with respect to visibility for a number of NAAQS issued between 1997 and 2010.

AEP supports EPA's finding that the BART alternatives in the Texas FIP addressing SO_2 and NOx BART satisfy the State of Texas visibility transport obligations under CAA 110(a)(2)(D)(i)(II) for certain NAAQS.

IV. AEP agrees with EPA's proposal to affirm the October 2017 approval of Texas' SIP determination that no sources are subject to BART for PM.

AEP agrees with EPA's affirmation of Texas' SIP determination that no sources in Texas

[16] Luminant announced the retirement of Big Brown Power Plant, Monticello Power Plant Units 1, 2, and 3 and Sandow Units 5A and 5B in 2018. SWEPCO announced the retirement of Welsh Power Plant Unit 2 in 2016. Public Service Company of Oklahoma announced the retirement of Oklaunion Power Plant by September 2020. CPS announced the plan to close the Deely Power Plant by the end of 2018. Texas Municipal Power Agency announced the reduced operation of Gibbons Creek Unit 1.

are subject to BART for PM.

V. AEP supports EPA's retention of the provision that provides the opportunity for certain units to op-in to the Texas SO_2 Trading Program.

AEP supports EPA's retention of the provision in the Program that allows units to "opt-in." Providing for the opt-in will give the Program the chance to more closely align with the CSAPR trading program that was deemed better than BART. Allowing additional units to opt-in provides trading opportunities that, in turn, would facilitate a more robust trading program. Participation by additional units could minimize the concern expressed by some of the risk of shifting generation from covered to non-covered units.

VI. AEP supports eliminating the additional flexibility to Coleto Creek in light of recent change in ownership.

In the October 2017 rulemaking, EPA provided compliance flexibility to Coleto Creek by allowing Coleto Creek, in the event its actual emissions in a compliance year exceeded its allowances, to receive the same number of allocations from the supplemental pool as the difference, as long as allowances were available. AEP supports a fair and equitable access to the supplemental pool. However, with the change in ownership, the reasons for extending this specific flexibility to Coleto Creek no longer exist. Retaining this flexibility would place Coleto Creek and its owner in a favorable position in comparison to other utilities operating in the ERCOT which would unfairly impact other EGUs. AEP supports removing the special provision for Coleto Creek, unless there are additional facts of which AEP is not aware that provides sufficient justification for keeping this provision.

VII. AEP supports the EPA's proposal that includes 40 CFR § 97.911(a)(2) that addresses how allowances from retired units will be allocated following retirement.

AEP's subsidiaries, SWEPCO and PSO have retired or announced retirements of coal-fired units. SWEPCO permanently retired the Welsh Power Plant Unit 2 in 2016 and PSO announced the retirement of Oklaunion Power Plant by September 2020. AEP supports the current Texas SO_2 Trading Program provision in 40 CFR § 97.911(a)(2) that provides for retired units to receive and bank the retired unit allocations for the time period set forth in that provision. This provision is consistent with how retired units have been treated under other EPA emissions trading programs, such as CSAPR.[17] In addition, AEP believes that continuing to provide allocations to retired units for 5 years is wise because companies will be encouraged to retire units that should be retired for efficiency, economic, and/or other reasons, and since retirement of these units results in significant and ongoing SO_2 emissions reductions. On the other hand revising 40 CFR § 97.911(a)(2) such that retired units would receive allocations for less than 5 years would serve to penalize companies for retiring such units relative to what these units would otherwise be allocated under 40 CFR § 97.911(a)(2). Most importantly, these allocations became effective on November 17, 2017[18] and companies including SWEPCO have relied on receiving these allocations in their decisions related to compliance strategy for their continuing operations.

Notwithstanding the foregoing, AEP would support revision of 40 CFR § 97.911(a)(2) to allow retired units to be allocated and to be able to bank their allocations indefinitely. This approach is consistent with the way retired units were treated under the Clean Air Mercury Rule.[19] Under the current 40 CFR § 97.911(a)(2), Welsh Unit 2 will continue to receive its allocations for a period of 5 years and bank allocations that are not used at its other plants covered by the program

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[17] See, e.g., 40 CFR §97.611(a)(2).
[18] 82 Fed. Reg. at 48,324.
[19] 40 CFR § 60.4105(b)(2); 70 Fed. Reg. 28,628 (May 18, 2005).

or sell banked allocations. After the 5 year period, Welsh would no longer receive the retired unit allocations. Under the suggested, revised provision, Welsh Unit 2 will continue to be allocated allowances for a period of 5 years and be able to bank or sell those allocations that are not used at its other plants covered by the Program. After the 5 year period, Welsh Unit 2 would continue to be allocated allowances even beyond the 5 year period and be able to bank unused allowances and either sell them or use them in future years at any of AEP's participating units.

Because these emissions from Welsh Unit 2 were modeled in the CSAPR better than BART demonstration, AEP asserts that SWEPCO should be able to bank these allocations and other retired units should be able to do likewise, beyond the 5 year period, since the BART alternative requirements were satisfied by including these emissions. Allowing companies to be allocated, and to be able to bank retired unit allowances will encourage owners and operators to consider retiring units and provide them with additional compliance options in generation planning. The retirement of units represents real visibility improvements and companies should not be punished by losing retired unit's allocations after a finite period of time.

VIII. AEP supports EPA's alternative proposal that reduces the available allowances in the supplemental pool and thus the total number of allowances available for allocation per year.

AEP supports EPA's alternative proposal that reduces the available allowances in the supplemental pool and thus total available allowances available per year. AEP agrees that this could support a slightly more robust market and demonstrate continued improvement in visibility.

Conclusion

For the reasons discussed above, AEP supports EPA's proposal to affirm the October 2017 SIP approval and FIP to address certain outstanding Regional Haze Requirements, with the caveats noted in AEP's comments to specific aspects of the FIP as requested by EPA. AEP urges EPA to affirm this Texas SO_2 Trading Program that it finalized on November 17, 2017. The compliance year of 2019 is imminent. Please contact Bruce Moore at (214) 777-1116 or Elizabeth Gunter at (512)481-3328, if you have questions concerning these comments.

October 26, 2018